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Noriyoshi Okuzono

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EXAMINER

NGUYEN, DUNG V

ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/596,724
Filing Date: June 22, 2006
Appellant(s): OKUZONO ET AL.

Andrew B. Whitehead
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 21 March 2011 appealing from the Office action mailed 15 June 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1 and 3-6 are on appeal.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,240,588

DICKEY

6-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 and 3-6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Dickey et al (USP 6,240,588). Dickey et al discloses a core 200 for a cleaning sponge roller, the core 250 being in a substantially cylindrical shape comprising a bore 270 extending in a axial direction and a plurality of small holes 260 communicating between the bore 270 and circumferential outer surface of the core 250, wherein the plurality of small holes 260 are distributed both in circumferential direction and in axial direction of the core 250 and aligned along a straight lines in the axial direction, grooves 252 recessed in the circumferential outer surface of the core 250 extend in the axial direction of the core 250, diameter of the bore 270 is between 0.060 and .35 (1.524 - 8.98 mm), diameter of the small holes is between .005 and .092 (0.12 - 2.34 mm), a flanges 251 and 253 are attached to the end of the core 250, in the circumferential direction of the core 250, six grooves 252 are positioned at even interval (note Fig. 1-6, col. 5, line 56 to col. 8, line 19). Dickey et al does not disclose expressly the diameter of

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the bore is 10 to 20 mm, diameter of small holes is 2.5 to 5 mm, a total of cross-sectional areas of the openings of the plurality of the small holes is larger than a cross-section area of the bore, or 1.2 to 5 times larger, the number of small holes in one groove is 2 to 5, or takes a repeat pattern of 2, 3 or 4. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select the above ranges, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Please note that in the instant application, applicant has not disclosed any criticality for the claimed limitations.

(10) Response to Argument

In response to Appellant's argument that the recited arrangement of the small holes of claim 1 are not obvious over Dickey, Dickey, Fig. 1A and column 2, lines 27-33, shows that the arrangement in which the small holes are arranged on one and the same circumference of the core has been used in the prior art. Furthermore, prior art reference of Brunelli et al (USP 6,076,217) discloses such arrangement in Fig. 1-3, column 3, lines 45-54.

Appellant argues that the recited ranges in claim 1 are not non-obvious and Dickey discloses that the bore has a diameter between 0.060 and 0.35 inches (1.54 and 8.89 mm) while claim 1 recites the diameter of the bore in the range 10 to 20 mm and Dickey discloses the diameter of the small holes between about 0.005 and about 0.092 inches (0.127 and 2.337 mm) while claim 1 recites the diameter of the small holes in the

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range 2.5 to 5 mm. MPEP 2144.05 (I) states "Similarly, a prima facie case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skill in the art would have expected them to have the same properties. *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985)". In this case, the claimed diameter of the bore of 10 mm and prior art of 8.89 mm and the claimed diameter of the small holes of 2.5 mm and prior art of 2.33 mm are considered close enough that one skill in the art would have expected them to have the same properties. Note that the specification contains no disclosure of either the critical nature of the claimed ranges or any unexpected results arising therefrom.

In response to Appellant argument that Appellant need not show criticality for the claimed range of parameters unless the parameter is recognized as a result-effective variables and the claimed range is a mere optimization of the result-effective variables, the present specification does not provide result for showing that the claimed ranges are result-effective variables.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Dung Van Nguyen/

Primary Examiner, Art Unit 3723

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